REMARKS

Claims 1, 2, 4-8, 10-12, 14-19 and 21-32 were examined and reported in the Office Action. Claims 1, 2, 4-8, 10-12, 14-19 and 21-32 are rejected. Claims 1, 7, 10, 14, 18, 21, 24, 26 and 28 are amended. Claims 1, 2, 4-8, 10-12, 14-19 and 21-32 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. 35 U.S.C. § 103(a)

It is asserted in the Office Action that claims 1, 2, 4-8, 10-12, 14-19 and 21-32 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over U. S. Patent No. 6,088,722 issued to Herz et al ("Herz") in view of U. S. Patent No. 6,357,042 issued to Srinivasan et al. ("Srinivasan "). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

> [t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." "*All words in a claim must be considered* in judging the patentability of that claim against the prior art." (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's claimed invention relates to receiving meta-data that includes attributes to future broadcasts. Ratings for these future broadcasts are obtained implicitly, that is, automatically (see Applicant's specification, page 17, lines 19-22; page 27, lines 16-20). Based on the ratings, the users will automatically receive a broadcast (i.e., a file containing a movie) that is stored on a set-top box (STB). If the user decides to view the received movie/show, the file is already received and stored so the file would not have to be downloaded or requested. Therefore, the user's likes/dislikes are of future broadcast are predicted.

Herz discloses a system and method for scheduling desired movies based on customer profiles. Herz further discloses that a schedule is created for each user based on the user's profile. As asserted in the Office Action, Herz discloses clips are presented for the user to rate (Office Action, page 3, lines 2-3). Herz, does not teach, disclose or suggest that future movies are automatically downloaded to a user's STB nor the limitations contained in Applicant's amended claims 1, 7, 10, 14, 18, 24, 26 and 28 of "<u>the ratings are automatically generated based on attribute relevance value and believability factor</u>." As the users are required to rate video clips to configure their profiles, the ratings in Herz are not automatically generated.

Srinivasan discloses inserting meta-data with a video stream, where the meta-data relates to the current video stream. Srinivasan, however, does not teach, disclose or suggest that future movies are automatically downloaded to a user's STB. Nor does Srinivasan teach, disclose or suggest "<u>the ratings are automatically generated based on attribute relevance value and believability factor</u>."

Therefore, even if Herz is combined with Srinivasan the resulting invention would still not teach, disclose or suggest that the ratings are automatically generated based on attribute relevance value and believability factor. Since neither Herz, Srinivasan, and therefore, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's amended claims 1, 7, 10, 14, 18, 21, 24, 26 and 28, as listed above, Applicant's amended claims 1, 7, 10, 14, 18, 21, 24, 26 and 28 are not obvious over Herz in view of Srinivasan since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from amended claims 1, 7, 10, 14, 18, 21, 24, 26 and 28, namely claims 2

and 4-6, 8, 11-12, 15-17, 19, 22-23, 25, 27, and 29-32, respectively, would also not be obvious over Herz in view of Srinivasan for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 1, 2, 4-8, 10-12, 14-19 and 21-32 are respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that claims 1, 2, 4-8, 10-12, 14-19 and 21-32 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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Dated: March 20, 2007

By: ______________________
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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.

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Jean Svoboda   Date: March 20, 2007